

**Rule 8. Acquisition of Jurisdiction.** The Court on Appeal acquires jurisdiction on the date the trial court clerk ~~issues~~ enters its Notice of Completion of Clerk's Record in the Chronological Case Summary. Before that date, the Court on Appeal may, whenever necessary, exercise limited jurisdiction in aid of its appellate jurisdiction, such as motions under Rules 18 and 39.

## **Rule 9. Initiation of the Appeal**

### **A. Filing the Notice of Appeal.**

- (1) *Appeals from Final Judgments.* A party initiates an appeal by filing a Notice of Appeal with the trial court clerk within thirty (30) days after the entry of a Final Judgment in the Chronological Case Summary. However, if any party files a timely motion to correct error, a Notice of Appeal must be filed within thirty (30) days after the court's ruling on such motion is entered in the Chronological Case Summary, or thirty (30) days after the motion is deemed denied under Trial Rule 53.3, whichever occurs first. Copies of the Notice of Appeal, which need not be file stamped by the trial court clerk, shall be served on all parties of record in the trial court, the Clerk, and upon the Attorney General in all Criminal Appeals and any appeals from a final judgment declaring a state statute unconstitutional in whole or in part. ([See Form # App.R. 9 - 1](#))
- (2) *Interlocutory Appeals.* The initiation of interlocutory appeals is covered in Rule 14.
- (3) *Administrative Appeals.* A judicial review proceeding taken directly to the Court of Appeals from an order, ruling, or decision of an Administrative Agency is commenced by filing a Notice of Appeal with the Administrative Agency within thirty (30) days after the date of the order, ruling or decision, notwithstanding any statute to the contrary.
- (4) *Abolition of Praecipe.* The praecipe for preparation of the Record is abolished.
- (5) *Forfeiture of Appeal.* Unless the Notice of Appeal is timely filed, the right to appeal shall be forfeited except as provided by P.C.R. 2.

**B. Death Penalty Cases.** When a trial court imposes a death sentence, it shall on the same day sentence is imposed, order the court reporter and trial court clerk to begin immediate preparation of the Record on Appeal.

**C. Joint Appeals.** If two (2) or more persons are entitled to appeal from a single judgment or order, they may proceed jointly by filing a joint Notice of Appeal. The joined parties may, thereafter, proceed on appeal as a single appellant.

**D. Cross-Appeals.** An appellee may cross-appeal without filing a Notice of Appeal by raising cross-appeal issues in the appellee's brief. A party must file a Notice of Appeal to preserve its right to appeal if no other party appeals.

**E. Payment of Filing Fee.** The appellant shall pay to the Clerk the filing fee of \$250. No filing fee is required in an appeal prosecuted in *forma pauperis* or on behalf of a governmental unit. The filing fee shall be paid to the Clerk when the Notice of Appeal is served on the Clerk. The Clerk shall not file any motion or other documents in the proceedings until the filing fee has been paid. A party may proceed on appeal in *forma pauperis* pursuant to Rule 40.

**F. Content of Notice of Appeal.** The Notice of Appeal shall include the following:

- (1) *Designation of Appealed Order or Judgment.* The Notice of Appeal shall designate the appealed judgment or order and whether it is a final judgment or interlocutory order.
- (2) *Designation of Court to which Appeal is Taken.* The Notice of Appeal shall designate the court to which the appeal is taken.
- (3) *Direction for Assembly of Clerk's Record.* The Notice of Appeal shall direct the trial court clerk to assemble the Clerk's Record.
- (4) *Request for Transcript.* The Notice of Appeal shall designate all portions of the Transcript necessary to present fairly and decide the issues on appeal. If the appellant intends to urge on appeal that a finding of fact or conclusion thereon is unsupported by the evidence or is contrary to the evidence, the Notice of Appeal shall request a Transcript of all the evidence. In Criminal Appeals, the Notice of Appeal must request the Transcript of the entire trial or evidentiary hearing, unless the party intends to limit the appeal to an issue requiring no Transcript.

**G. Supplemental Request for Transcript.** Any party to the appeal may file with the trial court clerk or the Administrative Agency, without leave of court, a request with the court reporter or the Administrative Agency for additional portions of the Transcript.

**H. Payment for Transcript.** When a Transcript is requested, a party must make satisfactory arrangements with the court reporter for payment of the cost of the Transcript. Unless a court order requires otherwise, each party shall be responsible to pay for all transcription costs associated with the Transcript that party requests.

**I. Administrative Agency Appeals.** In Administrative Agency appeals, the Notice of Appeal shall include the same contents and be handled in the same manner as an appeal from a Final Judgment in a civil case, notwithstanding any statute to the contrary. Assignments of error are not required. See Rule 9A(3). ([See Form # App.R. 9-2](#))

**J. Documents and Information Excluded from Public Access and Confidential Pursuant to Administrative Rule 9(G)(1).** Documents and information excluded

from public access pursuant to Administrative Rule 9(G)(1) shall be filed in accordance with Trial Rule 5(G).

#### **Rule 14. Interlocutory Appeals**

**A. Interlocutory Appeals of Right.** Appeals from the following interlocutory orders are taken as a matter of right by filing a Notice of Appeal with the trial court clerk within thirty (30) days of the entry of the interlocutory order **in the Chronological Case Summary**:

- (1) For the payment of money;
- (2) To compel the execution of any document
- (3) To compel the delivery or assignment of any securities, evidence of debt, documents or things in action;
- (4) For the sale or delivery of the possession of real property;
- (5) Granting or refusing to grant, dissolving, or refusing to dissolve a preliminary injunction;
- (6) Appointing or refusing to appoint a receiver, or revoking or refusing to revoke the appointment of a receiver;
- (7) For a writ of habeas corpus not otherwise authorized to be taken directly to the Supreme Court;
- (8) Transferring or refusing to transfer a case under Trial Rule 75; and
- (9) Issued by an Administrative Agency that by statute is expressly required to be appealed as a mandatory interlocutory appeal.

**B. Discretionary Interlocutory Appeals.** An appeal may be taken from other interlocutory orders if the trial court certifies its order and the Court of Appeals accepts jurisdiction over the appeal.

(1) *Certification by the Trial Court.* The trial court, in its discretion, upon motion by a party, may certify an interlocutory order to allow an immediate appeal.

(a) *Time for Filing Motion.* A motion requesting certification of an interlocutory order must be filed in the trial court within thirty (30) days of the date **entry in the Chronological Case Summary** of the interlocutory order unless the trial court, for good cause, permits a belated motion. If the trial court grants a belated motion and certifies the appeal, the court shall make a finding that the certification is based on a showing of good cause, and shall set forth the basis for that finding.

(b) *Content of the Motion in the Trial Court.* A motion to the trial court shall contain the following:

- (i) An identification of the interlocutory order sought to be certified;
- (ii) A concise statement of the issues to be addressed in the interlocutory appeal; and

- (iii) The reasons why an interlocutory appeal should be permitted.
- (c) *Grounds for Granting Interlocutory Appeal.* Grounds for granting an interlocutory appeal include:
- (i) The appellant will suffer substantial expense, damage or injury if the order is erroneous and the determination of the error is withheld until after judgment.
  - (ii) The order involves a substantial question of law, the early determination of which will promote a more orderly disposition of the case.
  - (iii) The remedy by appeal is otherwise inadequate.
- (d) *Response to Motion.* Any response to a motion for the trial court to certify an interlocutory order shall be filed within fifteen (15) days after service of the motion, and computing time in accordance with Trial Rule 6.
- (e) *Ruling on Motion by the Trial Court.* In the event the trial court fails thirty (30) days to set the motion for hearing or fails to rule on the motion within thirty (30) days after it was heard or thirty (30) days after it was filed, if no hearing is set, the motion requesting certification of an interlocutory order shall be deemed denied.
- (2) *Acceptance of the Interlocutory Appeal by the Court of Appeals.* If the trial court certifies an order for interlocutory appeal, the Court of Appeals, in its discretion, upon motion by a party, may accept jurisdiction of the appeal.
- (a) *Time for Filing Motion in the Court of Appeals.* The motion requesting that the Court of Appeals accept jurisdiction over an interlocutory appeal shall be filed within thirty (30) days of the date of **entry in the Chronological Case Summary** of the trial court's certification.
  - (b) *Content of the Motion in the Court of Appeals.* The motion requesting that the Court of Appeals accept jurisdiction shall state:
    - (i) The date of the interlocutory order.
    - (ii) The date the motion for certification was filed in the trial court.
    - (iii) The date the trial court's **certified certification of** its interlocutory order **was entered in the Chronological Case Summary**.
    - (iv) The reasons the Court of Appeals should accept this interlocutory appeal.
  - (c) *Attachments to Motion.* The party seeking an interlocutory appeal shall attach to its motion a copy of the trial court's certification of the interlocutory order and a copy of the interlocutory order.
  - (d) *Response to Motion.* Any response to a motion requesting the Court of Appeals to accept jurisdiction shall be filed within fifteen (15) days after service of the motion.

(3) *Filing of Notice of Appeal.* If the Court of Appeals accepts jurisdiction, the appellant shall file a Notice of Appeal with the trial court clerk within fifteen (15) days of the Court of Appeals' order accepting jurisdiction over the interlocutory appeal. The appellant shall also comply with Rule 9(E).

**C. Interlocutory Appeals From Orders Granting Or Denying Class Action Certification.** The Court of Appeals, in its discretion, may accept jurisdiction over an appeal from an interlocutory order granting or denying class action certification under Ind. Trial Rule 23.

(1) *Time for filing Motion.* A motion requesting that the Court of Appeals accept jurisdiction over an interlocutory appeal from an order granting or denying class action certification shall be filed within thirty (30) days of the entry of the order **in the Chronological Case Summary**.

(2) *Content of Motion.* The motion requesting that the Court of Appeals accept jurisdiction shall state:

(a) The date of **entry in the Chronological Case Summary** of the order granting or denying class certification.

(b) The facts necessary for consideration of the motion.

(c) The reasons the Court of Appeals should accept the interlocutory appeal.

(3) *Attachments to Motion.* A copy of the trial court's order granting or denying class action certification shall be attached to the motion requesting that the Court of Appeals accept jurisdiction over the interlocutory appeal.

(4) *Response to Motion.* Any response to the motion requesting the Court of Appeals to accept jurisdiction shall be filed within fifteen (15) days after service of the motion.

(5) *Filing of Notice of Appeal.* If the Court of Appeals accepts jurisdiction, the appellant shall file a Notice of Appeal with the trial court clerk within fifteen (15) days of the Court of Appeals' order accepting jurisdiction over the interlocutory appeal. The appellant shall also comply with Rule 9(E).

**D. Statutory Interlocutory Appeals.** Other interlocutory appeals may be taken only as provided by statute.

**E. Clerk's Record and Transcript.** The Clerk's Record shall be assembled in accordance with Rule 10. The court reporter shall file the Transcript in accordance with Rule 11.

**F. Briefing.** Briefing in interlocutory appeals shall be governed by Rules 43 and 44.

**G. Shortening or Extending Time.**

(1) *Extensions.* Extensions of time to prepare the Transcript or to file any brief in an interlocutory appeal are disfavored and will be granted only upon a showing of good cause. Any motion for extension must comply with Rule 35.

(2) *Shortening Deadlines.* The Court of Appeals, upon motion by a party and for good cause, may shorten any time period. A motion to shorten time shall be filed within ten (10) days of the filing of either the Notice of Appeal with the trial court clerk or the motion to the Court of Appeals requesting permission to file an interlocutory appeal.

**H. Stay of Trial Court Proceedings.** An interlocutory appeal shall not stay proceedings in the trial court unless the trial court or a judge of the Court of Appeals so orders. The order staying proceedings may be conditioned upon the furnishing of a bond or security protecting the appellee against loss incurred by the interlocutory appeal.

**Rule 62. Appeals Involving Waiver of Parental Consent to Abortion**

**A. Applicability.** This Rule governs an appeal by a minor or her physician from an adverse judgment or order of a trial court under Indiana Code 16-34-2-4.

**B. Permitted Parties.** For the purposes of this Rule, the term "physician" shall mean a natural person holding an unlimited license to practice medicine in the State of Indiana. The next friend of the minor shall be a natural person.

**C. Appeal by Minor or Her Physician.** A minor or her physician wishing to appeal a judgment or order denying the waiver of parental consent to abortion shall file with the trial court, no later than ten (10) days after entry of the order or judgment **in the Chronological Case Summary**, a written request that the Record on Appeal be prepared and certified. The trial court judge shall promptly certify the judgment or order and summary findings of fact and conclusion of law, together with the Petition initiating the proceeding, and either a stipulation of the facts or an electronic transcription of the evidence taken in the proceeding. These certified documents shall constitute the Record on Appeal. The trial court shall promptly transmit the Record on Appeal to the Clerk. No motion to correct error, Notice of Appeal or Appellant's Case Summary shall be filed.

**D. Appeal by State or Other Party.** If the trial court grants the requested consent but the State or any other proper party wishes to appeal and obtains a stay of the trial court's order or judgment, the State or other party shall follow the procedure in Section C.

**E. Decision by the Supreme Court.** The appeal shall proceed directly to the Supreme Court, which shall decide the appeal on the Record on Appeal without briefs or oral argument, unless the Court otherwise directs. Any party may, however, file a short statement of special points desired to be brought to the attention of the Supreme Court, which statement need not conform to the usual requirements for appellate briefs.

### **Rule 63. Review of Tax Court Decisions**

**A. Review of Final Judgment or Final Disposition.** Any party adversely affected by a Final Judgment of the Tax Court as defined by Rule 2(H), or a final disposition by the Tax Court of an appeal from a court of probate jurisdiction, shall have a right to petition the Supreme Court for review of the Final Judgment or final disposition.

**B. Rehearing.** Any party adversely affected by a Final Judgment or final disposition may file a Petition for Rehearing with the Tax Court, not a Motion to Correct Error. Rehearings from a Final Judgment or final disposition of the Tax Court shall be governed by Rule 54. A Petition for Rehearing need not be filed in order to seek Review, but when a Petition for Rehearing is used, a ruling or order by the Tax Court granting or denying the same shall be deemed a final decision and Review may be sought.

**C. Notice of Intent to Petition for Review.** A party initiates a petition for review by filing a Notice of Intent to Petition for Review with the Clerk in accordance with requirements of Rule 9 (except with respect to the filing fee) no later than:

- (1) thirty (30) days after the date of entry in the court's docket of the Final Judgment or final disposition if a Petition for Rehearing was not sought; or
- (2) thirty (30) days after the date of entry in the court's docket of the final disposition of the Petition for Rehearing if rehearing was sought and such Petition was timely filed by any party.

Rule 25(C), which provides a three-day extension for service by mail or third-party commercial carrier, does not extend the due date for filing a Notice of Intent to Petition for Review, and no extension of time shall be granted.

No Appellant's Case Summary shall be filed by the petitioning party.

**D. Clerk's Record and Transcript.** The Clerk shall give notice of filing of the Notice of Intent to Petition for Review to the Court Reporter and shall assemble the Clerk's Record in accordance with Rule 10. The Court Reporter shall prepare and file the Transcript in accordance with Rule 11. The Clerk shall retain, transmit, and grant access to the Clerk's Record in accordance with Rule 12. Reference to the "trial court clerk" in Rules 10, 11, and 12 shall mean the Clerk.

**E. Petition for Review.** The petitioning party shall file its Petition for Review no later than thirty (30) days after:

- (1) the date of the docket entry of the Clerk's ~~issues its a~~ Notice of completion of the Clerk's Record if the notice reports that the Transcript is complete or that no Transcript has been requested; or
- (2) in all other cases, the date of the docket entry of the Clerk's ~~issues its a~~ Notice of completion of the Transcript.

**F. Brief in Response.** A party may file a brief in response to the Petition for Review no later than thirty (30) days after the Petition is served.

**G. Reply Brief.** The petitioning party may file a reply brief no later than fifteen (15) days after a brief in response is served.

**H. Review of Interlocutory Orders.** Any party adversely affected by an interlocutory order of the Tax Court may petition the Supreme Court for Review of the order pursuant to Rule 14(B), which shall govern preparation of the Record on Appeal in interlocutory appeals. No Appellant's Case Summary or Notice of Intent to Petition for Review shall be filed after the Supreme Court accepts a petition for interlocutory review.

**I. Form and Length Limits.** A Petition for Review, any brief in response, and any reply brief are governed by Rules 43, 44, and 46; provided, that, immediately before the Argument section in the Petition for Review and brief in response there shall be a separate section entitled Reasons for Granting [or Denying] Review, which shall concisely explain why review should or should not be granted. Reference to the "appellant's brief," "appellee's brief," and "appellant's reply brief" in Rule 46 shall mean the Petition for Review, brief in response, and reply brief, respectively. No separate brief in support of the Petition shall be filed.



**J. Fiscal Impact.** Any brief may discuss the fiscal impact of the Tax Court's decision on taxpayers or government.

**K. Extensions of Time.** Extensions of time may be sought under Rule 35 except that no extension of the time for filing the Notice of Intent to Petition for Review shall be granted.

**L. Appendices.** Appendices shall be filed in compliance with Rules 49, 50, and 51. Reference to the “appellant’s brief” and “appellee’s brief” in Rule 49 shall mean the Petition for Review and brief in response, respectively.

**M. Considerations Governing the Grant of Review.** The grant of review is a matter of judicial discretion. The following provisions articulate the principal considerations governing the Supreme Court’s decision whether to grant Review.

(1) Conflict in Tax Court or Court of Appeals Decisions. The Tax Court has entered a decision in conflict with another decision of the Tax Court or the Court of Appeals on the same important issue.

(2) Conflict with Supreme Court Decision. The Tax Court has entered a decision in conflict with a decision of the Supreme Court on an important issue.

(3) Undecided Question of Law. The Tax Court has decided an important question of law or a case of great public importance that should be decided by the Supreme Court.

(4) Precedent in Need of Reconsideration. The Tax Court has correctly followed the ruling precedent, but such precedent is erroneous or in need of clarification or modification in some specific respect.

(5) Conflict with Federal Appellate Decision. The Tax Court has decided an important federal question in a way that conflicts with a decision of the Supreme Court of the United States or a United States Court of Appeals.

(6) Significant Departure From Law or Practice. The Tax Court has so significantly departed from accepted law or practice as to warrant the exercise of the Supreme Court’s jurisdiction.

**N. Effect of Denial of Review.** The denial of a Petition for Review shall have no legal effect other than to terminate the litigation between the parties in the Supreme Court. No Petition for Rehearing may be filed from an order denying a Petition for Review.

**O. Effect of Grant of Review.** After the Supreme Court grants review, the Tax Court retains jurisdiction of the case for the purpose of any interim relief or stays the parties may seek. The Supreme Court may review the Tax Court's disposition of any request for interim relief or stay.

**P. Filing Fee.** Upon the filing of a Petition for Review, the petitioner shall pay a fee of \$125.00 to the Clerk in addition to any other fees to be paid to the Clerk. However, no filing fee is required if the petition is filed on behalf of a state or governmental unit or by a party who proceeded in forma pauperis in the Tax Court.

**Q. Applicability of Other Appellate Rules.** All other rules of appellate procedure shall apply to Petitions for Review from the Tax Court except as otherwise specifically provided in this Rule.

**R. Supreme Court Evenly Divided.** Where the Supreme Court is evenly divided, either upon the question of accepting or denying review, or upon the disposition of the case once review is granted, review shall be deemed denied and the decision of the Tax Court shall be final.